United Nations S/2009/226

Security Council

Distr.: General
1 May 2009

Original: English

Letter dated 30 April 2009 from the President of the Governing Council of the United Nations Compensation Commission addressed to the President of the Security Council

I am pleased to provide my first report as the President of the Governing Council on the results of the Governing Council's sixty-seventh session, which was held at Geneva on 28 and 29 April 2009.

During the opening plenary meeting .ustria was elected as the President and Japan was elected as a Vice-President, joining Costa Rica, the other Vice-President.

During the session, the Council considered a number of reports and information notes prepared by the secretariat on the activities of the Commission since the last session; distribution by Governments and international organizations of payments to successful claimants; the transparency of the distribution process; and the return of undistributed funds.

The complete text of all the conclusions adopted by the Governing Council as well as a decision taken by the Council regarding the withholding and administration of funds under decision 258 (2005) will be sent by mail together with the documents of the session. I would, however, like to highlight a few issues that were discussed during the session. The first relates to the level of Iraq's contribution to the Compensation Fund. You will recall that, at its sixty-fifth session, and also at its sixty-sixth session, the Council welcomed the willingness of the Governments of both Iraq and Kuwait to commence consultations under the auspices of the Compensation Commission to discuss the approximately $24 billion in unpaid awards that will remain outstanding after the payment of the environmental awards. The Governing Council noted its disappointment that the consultations had yet to take place in spite of the efforts of the secretariat, including the letter addressed to the Prime Minister of Iraq dated 9 February 2009. However, the Council expressed its cautious optimism for progress in the light of the statement made by the delegation from Kuwait confirming its continued willingness to enter into discussions with Iraq and the statement made by the delegation from Iraq at the opening plenary meeting that the Government of Iraq had mandated a delegation headed by Mohammed Hammoud Bedan, Iraqi Vice-Minister for Foreign Affairs, to commence negotiations with Kuwait under the auspices of the Compensation Commission and to make arrangements at this session for the initial meeting. At the closing plenary meeting, the Executive Head of the secretariat advised the Council that the delegations from Kuwait and Iraq have agreed to meet at Geneva on 20 May

09-32075 (E) 080509

Please recycle

2009. Copies of the statements by Kuwait and Iraq are being sent by mail with the original of this letter.

The Council also noted that the secretariat has been working closely with the Department of Political Affairs of the United Nations Secretariat in the preparation of the Secretary-General's report under Security Council resolution 1859 (2008), given the potential impact of that report on the work of the Commission. The Council requested that the secretariat convey to the Secretary-General the positive statement by the Vice-Minister and his subsequent commitment to meeting at Geneva on 20 May 2009 for discussions with Kuwait under the auspices of the Compensation Commission. In that regard, the Executive Head will provide the Secretary-General with updates on any discussions held prior to the submission of his report to the Security Council.

On the issue of arrangements for ensuring that payments are made to the Compensation Fund, the Council noted that the mandate of the International Advisory and Monitoring Board is set to expire at the end of 2009, the Iraq Committee of Financial Experts assuming responsibility for oversight of Iraqi oil export revenues. As the Governing Council is responsible for the determination of the level and manner of Iraq's contribution to the Fund, it has requested that the secretariat continue to engage in consultations with the Committee and the Controller, to ensure that the current arrangements continue following the transfer of the oversight function from the Board to the Committee and, further, to ensure that the Governing Council is given notice of any proposed changes so that it has sufficient time to consider alternative arrangements.

With respect to the Follow-up Programme for Environmental Awards established pursuant to decision 258 (2005) to monitor the financial and technical implementation of environmental projects being undertaken by Iran (Islamic Republic of), Jordan, Kuwait and Saudi Arabia with funds awarded under the F4 category of claims, the Council heard a briefing by the secretariat on the status of the Programme in respect of each of the participating Governments. Recalling the two withholding mechanisms established under decision 258, the Governing Council adopted decision 266 (S/AC.26/Dec.266(2009)), whereby it was decided that a withholding of an additional 10 per cent will be applied to the five projects valued at greater than $50 million that are subject to a phasing plan requirement, and wherein those participating Governments with such projects are directed to establish special accounts within their Central Banks or similar Government institutions from which to administer the remaining "phased project" funds. Finally, recalling paragraph 6 of decision 258, which provides that prior to the disestablishment of the Governing Council, the Council will consider further arrangements with regard to its review functions in respect of the Follow-up Programme, the Governing Council held a preliminary discussion on this issue and directed the secretariat to continue its investigations and to convene a group of experts to prepare an options paper for consideration by the Council at its next session.

The Council also considered the issue of the appointment of Rolf Knutsson as the Special Representative to the Compensation Commission. The Council noted that, although a response was provided by the Office of the Secretary-General to the letter dated 10 November 2008 from the President of the Governing Council, the mandate and associated budgetary implications remain unclear. In that regard, the

Council has requested further clarification on all aspects of this issue from his Office.

The Council was informed by the secretariat that a payment was made on 29 April 2009 to 10 successful claimants pursuant to decision 256 and that there are now 10 approved claims in favour of Kuwait (in the corporate and government claims categories), with a total outstanding balance of approximately $25.2 billion, which have not been paid in full. The overall amount of compensation made available to date by the United Nations Compensation Commission is approximately $27.2 billion.

The Council decided to hold its next regular session on 10 and 11 November 2009.

(*Signed*) Christian **Strohal**
President of the Governing Council